

The moment of decision which white leaders have told Mississippians would never come has now arrived. A direct challenge to the state's policy of massive resistance has been offered by a Negro college student, and the challenge has been backed by the federal courts. Next week, if a federal court order is obeyed, James Meredith will enter the University of Mississippi, the first of his race to do so.

And yet we are not a stupid people. We know that in any showdown between the federal government and one state's government, the federal government will prevail. This was proved — and interposition was once and for all destroyed — in the Civil War. It would be a tragedy if it had to be demonstrated again by U. S. marshals, U. S. soldiers — or Jackson. But by interposition, by nullification, by secession, were

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There is no secret about what we believe is the proper course of action. When the Meredith case first came to the courts, this newspaper said Ole Miss should stay open no matter what occurred. After and before the 1954 Supreme Court desegregation decision, we have said that qualified Negro students should be admitted to our institutions of higher learning. Today we are repeating this position. In the name of common sense if nothing else, the state of Mississippi should abandon massive resistance, for events have demonstrated time and again since 1954 that it is an impossible policy to maintain.

If they take the former course, they will bring credit upon themselves and their state, for they will have demonstrated that their respect for law and order is greater than their personal feelings, no matter how intense. But if many take the latter course, they will shame themselves and their state. They will also inevitably bring the force of federal power to Oxford, as no one desires so as the extremists.

Calculus, rational thinking and maturity — these are the qualities which all Mississippians should strive to maintain next week. They are also qualities we pray our political leaders will possess as they make the decisions which could either destroy a university, irreparably harm a state or lead us out of a dangerous intellectual, moral and political valley.

B C

MISSISSIPPI ASKS U.S. FOR DAMAGES

**Claims \$340,000 for Losses
in University Property**

Special to The New York Times

JACKSON, Miss. — A Mississippi legislative committee said today that the Federal Government should pay \$344,000 for damages to property at the University of Mississippi in the campus riot over desegregation on Sept. 30.

The General Legislative Investigating Committee also called for the removal of Army troops from the college grounds. The committee said that \$195,000 of the damage was done to the university airport by the landing of large military planes that airlifted thousands of troops and equipment into Oxford.

Troops have been bivouacked at the airport since their arrival on Oct. 1 and the committee said that damages done to sodded areas of the airport grounds amounted to \$13,825.

The troops were ordered into Oxford as a result of violence that erupted when James H. Meredith, a Negro, entered the university campus on Sept. 30.

Among the items for which the Federal Government should be responsible, the committee said, were \$3,609 in damages to the university fire truck and \$250 damage to a bulldozer seized by a group of rioters who attempted to storm the cordon of Federal marshals around the Lyceum Building on the campus on the night of Sept. 30.

The committee also said the Government should pay \$8,000 for reseeding and fertilizing the grove outside the Lyceum Building where hundreds of rioters gathered.

One item of \$300 was for replacement of concrete benches smashed by rioters, who used the chunks to hurl at the Federal marshals.

New York Times
New York, New York
Date: 11/15/62

Reinstatement of Student Worries Mississippi U.

**The State Board of Trustees
of Higher Learning is moving**

Should that court allow the Ross R. Barnett and a memorandum decision to stand, it was learned, her of the Legislature, who had

James O. Eastland, Mississippi Democrat. It is said to have

decision to university officials. I said the punishment was too severe.

New York Times
New York, New York
Date: 12/5/62

U. S. COURT OF APPEALS BEFORE HONORABLE BEN F. CAMERON, JUDGE OF THE

FILED

UNITED STATES COURT OF APPEALS

AUG 1 1962

FOR THE FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

IN RE: CAUSE #19,475 IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JAMES HOWARD MEREDITH, on behalf of
Himself and Others similarly situated,

Appellant,

v.

CHARLES DICKSON FAIR, President of the
Board of Trustees of State Institutions
of Higher Learning, et al,

Appellees.

MOTION OF APPELLEES FOR ADDITIONAL
RELIEF TO STAY AMENDED ORDER FILED
JULY 28, 1962.

COME NOW Charles Dickson Fair, et al, who were Appellees
in the above referenced cause, and respectfully move for the
entry of an order granting additional relief to them because
of the amended action taken by the U. S. Court of Appeals for
the Fifth Circuit, acting through a panel thereof, on the 28th
day of July, 1962, and in support of this motion would show
the following facts:

I.

On the 28th day of July, 1962, your present movants
moved Your Honor for a stay of an instrument styled "Judgment"
issued "as and for the mandate" of the said Court of Appeals

on the 27th day of July, 1962, and for a stay of an instrument styled "Order Vacating Stay, Recalling Mandate and Issuing New Mandate Forthwith" dated the same date.

II.

On said 28th day of July, 1962, Your Honor issued an order staying each and both of said instruments for a period of thirty (30) days from and after the 28th day of July, 1962 and granting other relief set forth therein in the form of extending a stay previously granted on the 18th day of July, 1962 of a prior order of said panel in Cause #19,475 in said Court of Appeals.

III.

On the 31st day of July, 1962 counsel for movants received via U. S. Mail a letter from the Clerk of said Court of Appeals and an "Order" from said court showing that the original thereof was filed on July 28, 1962, a true copy of which said letter and "Order" are attached to this motion as Exhibits "A" and "B" respectively.

WHEREFORE PREMISES CONSIDERED, movants pray that Your Honor will, pursuant to the provisions of Title 28, U. S. Code, Section 2101 (f), amend the stay order dated the 28th day of July, 1962 to include a stay of the order dated July 28, 1962 which is Exhibit "B" to this motion, for a period of thirty (30) days from and after the 28th day of July, 1962, to enable

movants to obtain a Writ of Certiorari from the Supreme Court of the United States to review said "Order", Exhibit "B" hereto.

Respectfully submitted,

CHARLES D. FAIR, ET AL, Movants

BY: JOE T. PATTERSON, Attorney General
State of Mississippi
New Capitol Building
Jackson, Mississippi

DUGAS SHANDS, Assistant Attorney General, State of Mississippi
New Capitol Building
Jackson, Mississippi

CHARLES CLARK, Special Assistant Attorney General
State of Mississippi
P. O. Box 1046
Jackson, Mississippi

By Charles Clark
Charles Clark, Special Assistant Attorney General
State of Mississippi

VERIFICATION

STATE OF MISSISSIPPI
COUNTY OF HINDS

Personally came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named CHARLES CLARK, who, being by me first duly sworn, states on oath that the matters, facts and things set forth in the foregoing motion are true and correct as therein stated.

Charles Clark
Charles Clark

SWORN TO AND SUBSCRIBED BEFORE ME, this 31 day of July, 1962.

My commission expires:
March 7 1965

William H. Oxx Jr.
NOTARY PUBLIC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a true copy of the foregoing motion on Constance B. Motley, Esq. and R. Jess Brown, Esq. by U. S. Mail, postage prepaid, addressed to their best known addresses.

THIS 31st DAY OF JULY, 1962.


CHARLES CLARK

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

POST OFFICE BOX 23
NEW ORLEANS 8, LA.

July 28, 1962

Clerk
United States District Court
Jackson, Mississippi

Re: No. 19475 - James H. Meredith, etc. vs.
Charles Dickson Fair, etc., et al
(Your No. 3130 Civil-Jackson Div.)

Dear Sir:

Enclosed is a certified copy of the judgment of this Court in the above case, issued as and for the mandate, together with a copy of its opinion. Please substitute this judgment for the one forwarded on July 27, returning the first judgment issued.

Incorporated on the judgment is a detailed statement of the costs in this Court, as follows:

Docketing cause, etc. _____ \$ 25.00

recoverable by appellant from appellees upon a final settlement of all costs in your court.

Please acknowledge receipt.

Very truly yours,

EDWARD W. WADSWORTH, CLERK

By Glenn R. James
Chief Deputy Clerk

encls. (Letter only)
Atty. C. B. Motley
Mr. R. Jess Brown
Mr. Chas. Clark
Hon. Joe T. Patterson
Mr. Dugas Shands

Exhibit "A"

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT.

NO. 19,475

JAMES H. MEREDITH, on behalf of himself and others
similarly situated,

Appellant,

v.

CHARLES DICKSON FAIR, President of the Board of Trustees
of the State Institutions of Higher
Learning, et al.,

Appellees.

This Court on July 26, 1962 entered its opinion and judgment forthwith (1) vacating a stay issued herein by Judge E. M. Cameron, July 18, 1962, (2) recalling its mandate issued herein July 17, 1962, (3) amending and reinsuing its mandate, for the purpose of preventing an injustice, by ordering the District Court to issue forthwith an injunction against the defendants-appellees ordering the immediate admission of the plaintiff-appellant, James H. Meredith, to the University of Mississippi, (4) which opinion and judgment includes an order of injunction by this Court against the defendants-appellees herein.

Now therefore, the following injunctive order is issued:

ORDER

Pending such time as the District Court has issued and enforced the orders herein required and until such time as there has been full and actual compliance in good faith with each and all of said orders by the actual admission of plaintiff-appellant to, and the continued attendance thereafter at the University of Mississippi on the same basis as other students who attend the University, the defendants, their servants, agents, employees, successors and assigns, and all persons acting

(1) Ordered to admit the plaintiff, James H. Meredith, to the University of Mississippi, on the same basis as other students at the University, under his applications heretofore filed, which are declared to be continuing applications, such admission to be immediate or, because of the second summer session having started, such admission to be in September, at Meredith's option, and without further registration,

(2) Prohibited from any act of discrimination relating to Meredith's admission and continued attendance, and is

(3) Ordered promptly to evaluate and approve Meredith's credits without discrimination and on a reasonable basis in keeping with the standards applicable to transfers to the University of Mississippi.

In aid of this Court's jurisdiction and in order to preserve the effectiveness of its judgment, this Court entered a preliminary injunction on June 12, 1962. The injunction was against Paul G. Alexander, Attorney for Hinds County, Mississippi, his agent, employees, successors, and all persons in active concert and participation with him and all persons who received notice of the issuance of the order, restraining and enjoining each and all of them from proceeding with the criminal action instituted against James H. Meredith in the Justice of the Peace Court of Hinds County, Justice District No. 5, or any other court of the State of Mississippi, charging that Meredith knowingly secured his registration as a voter in Hinds County but was a resident of Attala County, Mississippi. In further aid of this Court's jurisdiction and in order to preserve the continued effectiveness of its judgment and orders, the said preliminary injunction is continued against the same parties and all other parties having knowledge of this decree pending the final action of the United States Supreme Court if and when the defendants-appellees should apply for a writ of certiorari or for any other appropriate action in this cause by the United States Supreme Court.

it is further ordered that a copy of this order be served upon the defendants-appellees, through their attorneys, and upon Paul G. Alexander, County Attorney for Hinds County, Mississippi, and Joseph T. Patterson, Attorney General for the State of Mississippi.

Entered at New Orleans, Louisiana
this 28th day of July, 1962.

/s/ JOHN R. BROWN

United States Circuit Judge.

/s/ JOHN MINOR WISDOM

United States Circuit Judge.

/s/ DOZIER A. DEVANE

United States District Judge.

(ORIGINAL FILED: JULY 28, 1962)

A true copy

Test: EDWARD W. WADSWORTH

Clerk, U. S. Court of Appeals, Fifth Circuit

E7 Clara R. James
Deputy

New Orleans, Louisiana

JUL 28 1962

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT.

U. S. COURT OF APPEALS

FILED

JUL 28 1962

NO. 19,475

EDWARD W. WADSWORTH
CLERK

JAMES H. MEREDITH, on behalf of himself and others
..... similarly situated,

Appellant,

v.

CHARLES DICKSON FAIR, President of the Board of Trustees
..... of the State Institutions of Higher
Learning, et al.,

Appellees.

This Court on July 26, 1962 entered its opinion and judgment forthwith (1) vacating a stay issued herein by Judge Ben F. Cameron, July 18, 1962, (2) recalling its mandate issued herein July 17, 1962, (3) amending and reissuing its mandate, for the purpose of preventing an injustice, by ordering the District Court to issue forthwith an injunction against the defendants-appellees ordering the immediate admission of the plaintiff-appellant, James H. Meredith, to the University of Mississippi, (4) which opinion and judgment includes an order of injunction by this Court against the defendants-appellees herein.

Now therefore, the following injunctive order is issued:

ORDER

Pending such time as the District Court has issued and enforced the orders herein required and until such time as there has been full and actual compliance in good faith with each and all of said orders by the actual admission of plaintiff-appellant to, and the continued attendance thereafter at the University of Mississippi on the same basis as other students who attend the University, the defendants, their servants, agents, employees, successors and assigns, and all persons acting in concert with them, as well as any and all persons

having knowledge of the decree are expressly:

(1) Ordered to admit the plaintiff, James H. Meredith, to the University of Mississippi, on the same basis as other students at the University, under his applications heretofore filed, which are declared to be continuing applications, such admission to be immediate or, because of the second summer session having started, such admission to be in September, at Meredith's option, and without further registration,

(2) Prohibited from any act of discrimination relating to Meredith's admission and continued attendance, and is

(3) Ordered promptly to evaluate and approve Meredith's credits without discrimination and on a reasonable basis in keeping with the standards applicable to transfers to the University of Mississippi.

In aid of this Court's jurisdiction and in order to preserve the effectiveness of its judgment, this Court entered a preliminary injunction on June 12, 1962. The injunction was against Paul G. Alexander, Attorney for Hinds County, Mississippi, his agent, employees, successors, and all persons in active concert and participation with him and all persons who received notice of the issuance of the order, restraining and enjoining each and all of them from proceeding with the criminal action instituted against James H. Meredith in the Justice of the Peace Court of Hinds County, Justice District No. 5, or any other court of the State of Mississippi, charging that Meredith knowingly secured his registration as a voter in Hinds County but was a resident of Attala County, Mississippi. In further aid of this Court's jurisdiction and in order to preserve the continued effectiveness of its judgment and orders, the said preliminary injunction is continued against the same parties and all other parties having knowledge of this decree pending the final action of the United States Supreme Court if and when the defendants-appellees should apply for a writ of certiorari or for any other appropriate action in this cause by the United States Supreme Court.

It is further ordered that a copy of this order be served upon the defendants-appellees, through their attorneys, and upon Paul G. Alexander, County Attorney for Hinds County, Mississippi, and Joseph T. Patterson, Attorney General for the State of Mississippi.

Entered at New Orleans, Louisiana
this 28th day of July, 1962.


John R. Brown, JMW
United States Circuit Judge

John Minor Wisdom
United States Circuit Judge

Dozier A. DeVane, JMW
United States District Judge

FILED

SEP 18 1962

EDWARD W. WADSWORTH

CLERK

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

NO. 19475

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

ORDER DESIGNATING UNITED STATES OF AMERICA
AS AMICUS CURIAE

It appearing from the application of the United States, filed this day, that the interest of the United States in the due administration of justice and the integrity of the processes of its courts should be represented in these proceedings,

IT IS ORDERED that the United States be designated and authorized to appear and participate as amicus curiae in all proceedings in this action before this Court and by reason of the mandates and orders of this Court of July 27, 28, 1962, and subsequently thereto, also before the District Court for the Southern District of Mississippi to accord each court the benefit of its views and recommendations, with the right to submit pleadings, evidence, arguments and briefs and to initiate such further proceedings, including proceedings for injunctive relief and proceedings for contempt of court, as may be appropriate in order to maintain and preserve the due administration of justice and the

integrity of the judicial processes of the United States.

The marshal is directed to serve a copy of this order upon each of the parties to this action through their attorneys.

September 18, 1962

15/ John R. Brown
Circuit Judge

15/ John M. Hudson
Circuit Judge

15/ Griffin B. Bell
Circuit Judge

A true copy

Test: EDWARD W. WADSWORTH

Clerk, U. S. Court of Appeals, Fifth Circuit

Richard S. Wadsworth
Deputy

New Orleans, Louisiana

SEP 18 1962

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

SEP 25 1962

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

EDWARD W. WADSWORTH
CLERK

NO. 19475

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

TEMPORARY RESTRAINING ORDER

This Court having entered its order in this action on July 28, 1962, and the District Court for the Southern District of Mississippi having entered a similar order on September 13, 1962, pursuant to the mandate of this Court, requiring the defendant officials of the University of Mississippi and the defendant members of the Board of Trustees of the Institutions of Higher Learning of the State of Mississippi to enroll James Howard Meredith as a student in the University of Mississippi, and

It appearing from the verified petition of the United States, Amicus Curiae herein, that the State of Mississippi, Ross R. Barnett, Governor of Mississippi, Joe T. Patterson, Attorney General of Mississippi, T. B. Birdsong, Commissioner of Public Safety of Mississippi, Paul G. Alexander, District Attorney of Hinds County, William R. Lamb, District Attorney of Lafayette County, J. Robert Gilfoy, Sheriff of Hinds County, J. W. Ford, Sheriff of Lafayette County, William D. Rayfield, Chief of Police of the City of Jackson, James D. Jones, Chief of Police of the City of Oxford, Walton Smith, Constable of the City of Oxford, the classes consisting of all district attorneys in Mississippi, the classes consisting of the sheriffs of all counties

in Mississippi, the classes consisting of all chiefs of police in Mississippi, and the classes consisting of all constables and town officials in Mississippi, threaten to implement and enforce, unless restrained by order of this Court, the provisions of a Resolution of Interposition adopted by the Mississippi Legislature, the provisions of Section 4065.3 of the Mississippi Code, and a Proclamation of Ross R. Barnett invoking the doctrine of interposition with respect to the enforcement of the orders of this Court in this case; that Paul G. Alexander has instituted two criminal prosecutions against James Howard Meredith on account of the efforts of James Howard Meredith to enroll in the University of Mississippi pursuant to the orders of this Court; that A. L. Meador, Sr., and the class of persons he represents, on September 19, 1962, instituted in the Chancery Court of the Second Judicial District of Jones County, Mississippi, a civil action against James Howard Meredith to prevent him from attending the University of Mississippi; that on September 20, 1962, James Howard Meredith, while seeking to enroll at the University of Mississippi in Oxford, Mississippi, pursuant to the orders of this Court, was served with a writ of injunction issued by the Chancery Court of Lafayette County, Mississippi, at the instance of Ross R. Barnett, enjoining James Howard Meredith from applying to or attending the University of Mississippi; that on September 20, 1962 the State of Mississippi enacted Senate Bill 1501, the effect of which is to punish James Howard Meredith should he seek enrollment in the University of Mississippi; that the effect of the conduct of the defendants herein named in implementing the policy of the State of Mississippi as proclaimed by Ross R. Barnett will necessarily be to prevent the carrying out of the orders of this Court and of the District Court for the Southern District of Mississippi; and that the acts and conduct of the defendants named in the petition will cause immediate and irreparable injury to the United States consisting of the impairment of the integrity of its judicial processes, the obstruction of the due administration of justice, and the deprivation of rights under the Constitution and laws of the United States, all before notice can be served and a hearing had,

IT IS ORDERED that the State of Mississippi, Ross R. Barnett,

Joe T. Patterson, T. B. Birdsong, Paul G. Alexander, William R. Lamb, J. Robert Gilfoy, J. W. Ford, William D. Rayfield, James D. Jones, Walton Smith, the class consisting of all district attorneys in Mississippi, the class consisting of the sheriffs of all counties in Mississippi, the class consisting of all chiefs of police in Mississippi, and the class consisting of all constables and town marshals in Mississippi, their agents, employees, officers, successors, and all persons in active concert or participation with them, be temporarily restrained from:

1. Arresting, attempting to arrest, prosecuting or instituting any prosecution against James Howard Meredith under any statute, ordinance, rule or regulation whatever, on account of his attending, or seeking to attend, the University of Mississippi;

2. Instituting or proceeding further in any civil action against James Howard Meredith or any other persons on account of James Howard Meredith's enrolling or seeking to enroll, or attending the University of Mississippi;

3. Injuring, harassing, threatening or intimidating James Howard Meredith in any other way or by any other means on account of his attending or seeking to attend the University of Mississippi;

4. Interfering with or obstructing by any means or in any manner the performance of obligations or the enjoyment of rights under this Court's order of July 28, 1962 and the order of the United States District Court for the Southern District of Mississippi entered September 13, 1962, in this action, and

5. Interfering with or obstructing, by force, threat, arrest or otherwise, any officer or agent of the United States in the performance of duties in connection with the enforcement of, and the prevention of obstruction to, the orders entered by this Court and the District Court for the Southern District of Mississippi relating to the enrollment and attendance of James Howard Meredith at the University of Mississippi; or arresting, prosecuting or punishing such officer or agent on account of his performing or seeking to perform such duty.

IT IS FURTHER ORDERED that Paul G. Alexander and J. Robert Gilfoy be temporarily restrained from proceeding further, serving or enforcing any process or judgment, or arresting James Howard Meredith in con-

IT IS FURTHER ORDERED that A. L. Meador, Sr., be temporarily restrained from taking any further action or seeking to enforce any judgment entered in the case of A. L. Meador, Sr. v. James Meredith, et al.

IT IS FURTHER ORDERED that Ross R. Barnett be temporarily restrained from enforcing or seeking to enforce against James Howard Meredith, any process or judgment in the case of State of Mississippi, Ex Rel Ross Barnett, Governor vs. James H. Meredith

/s/ ELBERT P. TUTTLE
Circuit Judge

/s/ RICHARD T. RIVES
Circuit Judge

/s/ JOHN MINOR WISDOM
Circuit Judge

Signed this 25th day of
September, 1962, at 8:30 P. M.

A true copy
Test: EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit
By *E. E. Hamacher*
Deputy

New Orleans, Louisiana

Sep. 25, 1962

FILED

SEP 25 1962

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

NO. 19475

NOTICE OF MOTION AND MOTION
FOR PRELIMINARY INJUNCTIONTO ALL DEFENDANTS NAMED IN THE PETITION OF THE UNITED STATES
FOR AN INJUNCTION:

Please take notice that on October 25th, 1962, at
10 o'clock a.m. or as soon thereafter as counsel may be heard, in
the court room of the United States Court of Appeals for the Fifth
Circuit, in the United States Court House, New Orleans, Louisiana, the
United States, amicus curiae herein, will move the Court for a prelimin-
ary injunction on its petition for an injunction filed herein. The mo-
tion will be based upon all of the pleadings, documents and other
papers heretofore filed in this case and upon oral testimony and other
evidence to be offered at the hearing.

UNITED STATES OF AMERICA,

Amicus Curiae and Petitioner

By:

/s/ John Doar

JOHN DOAR

Attorney, Department of Justice

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JAMES H. MEREDITH,

Appellant,

v.

NO. 19475

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

APPLICATION BY THE UNITED STATES, AMICUS CURIAE,
FOR AN ORDER REQUIRING ROSS R. BARNETT TO SHOW
CAUSE WHY HE SHOULD NOT BE HELD IN CIVIL CONTEMPT

The United States, amicus curiae herein, applies to the Court for an order requiring Ross R. Barnett to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining order issued by this Court this day and as reason therefor states:

1. On July 28, 1962, this Court entered its order in the case of James Howard Meredith, et al., v. Charles Dickson Fair, et al. No. 19,475, requiring Robert B. Ellis, Registrar of the University of Mississippi, James Davis Williams, Chancellor of the University, Arthur Beverly Lewis, Dean of the College of Liberal Arts of the University, and the defendant members of the Board of Trustees of Higher Learning to register and admit James H. Meredith as a student in the University of Mississippi.

2. On September 24, 1962, this Court, in instructing the above-named officials of the University of Mississippi and the members of the Board of Trustees of Higher Learning what they must do to comply with this Court's order of July 28, 1962, directed Robert B. Ellis to be available at Jackson, Mississippi at the office of the Board of Trustees, from 1:00 p.m. to ^{6 JD} 4:00 p.m. on September 25, 1962, for the purpose of registering James H. Meredith and admitting him as a student to the University.

3. At 8:30 a.m. today, this Court, upon application of the United States, issued its temporary restraining order in this action, restraining Ross R. Barnett from interfering with or obstructing by any means or in any manner the enjoyment of rights under this Court's order of July 28, 1962, requiring the enrollment of James H. Meredith at the University.

4. At approximately 4:30 p.m. today, Ross R. Barnett, having been served with a copy of the temporary restraining order described in the preceding paragraph, and having actual notice of the terms of that order, deliberately prevented James H. Meredith from entering the office of the Board of Trustees in Jackson, Mississippi, all for the purpose of preventing James H. Meredith from enrolling as a student in the University and for the purpose of preventing James H. Meredith from enjoying his rights under this Court's order of July 28, 1962, and preventing Robert B. Ellis from performing his obligations under that order.

WHEREFORE the United States asks that this Court enter an order requiring Ross R. Barnett to appear before this Court, at a time and place to be fixed by this Court, to show cause, if any he has, why he should not be held in civil contempt of this Court's temporary restraining order of September 25, 1962.

UNITED STATES OF AMERICA,
Amicus Curiae,

BY: /s/ Burke Marshall JD
BURKE MARSHALL
Assistant Attorney General

/s/ St. John Barrett
ST. JOHN BARRETT
Attorney, Department of Justice

VERIFICATION

John Doar, being first duly sworn, states that he has read the allegations set forth in the foregoing application of the United States for an order to show cause and that the allegations are true.

/s/ JOHN DOAR
JOHN DOAR

/s/ RICHARD T. RIVES
JUDGE CLERK OF THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Certified to be a true copy

Test: /s/ EDWARD W. WADSWORTH

Edward W. Wadsworth, Clerk
U. S. Court of Appeals

Sept. 26 1962

IN THE UNITED STATES COURT OF APPEALS Edward W. Wadsworth
FOR THE FIFTH CIRCUIT Clerk

JAMES H. MEREDITH,

Appellant,

v.

CHARLES DICKSON FAIR, et al.,

Appellees.

NO. 19475

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

ORDER REQUIRING PAUL B. JOHNSON, JR.
TO SHOW CAUSE WHY HE SHOULD NOT BE
HELD IN CIVIL CONTEMPT

This Court having entered an order on July 28, 1962, and the District Court for the Southern District of Mississippi having entered an order pursuant to the mandate of this Court on September 13, 1962, requiring officials of the University of Mississippi and the members of the Board of Trustees of Institutions of Higher Learning of the State of Mississippi to register and admit James H. Meredith as a student in the University of Mississippi, and

This Court having entered a temporary restraining order on September 25, 1962, restraining the State of Mississippi, Ross R. Barnett, their agents, employees, officers and successors, together with all persons in active concert and participation with them, from interfering with or obstructing by any means or in any manner the performance of obligations or the enjoyment of rights under this Court's order of July 28, 1962 and the order of the United States District Court for the Southern District of Mississippi of September 13, 1962, and

It appearing from the verified application of the United States, amicus curiae herein, that Paul B. Johnson, Jr. is an officer and agent of the State of Mississippi; that on September 26, 1962, after receiving actual and constructive notice of the terms of this Court's temporary restraining order of September 25, 1962, and while acting in concert and active participation with Ross R. Barnett, he prevented James H. Meredith from entering the campus of the University of Mississippi in Oxford, Mississippi, and did thereby prevent James H. Meredith from enrolling in and attending the University, all for the purpose of interfering with and obstructing James H. Meredith in the enjoyment of rights, and preventing and obstructing the officials of the University and the Board of Trustees of Institutions of Higher Learning from performing obligations under this Court's order of July 28, 1962, and the order of the United States District Court for the Southern District of Mississippi of September 13, 1962,

IT IS ORDERED that Paul B. Johnson, Jr. appear personally before this Court on September 29, 1962, at 10 o'clock a.m. in the court room of the United States Court of Appeals for the Fifth Circuit at 600 Camp Street, New Orleans, Louisiana, to show cause, if any he has, why he should not be held in civil contempt of the temporary restraining order issued by this Court on September 25, 1962.

The Marshal is directed to serve a copy of this order upon Paul B. Johnson, Jr. forthwith.

Signed this September 26, 1962, at 5 o'clock p.m.

/s/ Richard T. Rives
CIRCUIT JUDGE

/s/ John R. Brown
CIRCUIT JUDGE

/s/ John Minor Wisdom
CIRCUIT JUDGE

Surreit 10/1/46

IN THE
United States Court of Appeals
FOR THE FIFTH CIRCUIT

No. 19475

JAMES H. MEREDITH,

Appellant,

versus

CHARLES DICKSON FAIR, et al.,

Appellees.

UNITED STATES OF AMERICA,
Amicus Curiae and Petitioner,

versus

STATE OF MISSISSIPPI; ROSS R. BARNETT,
Governor of the State of Mississippi; JOE T.
PATTERSON, Attorney General of the State of
Mississippi; T. B. BIRDSONG, Commissioner of
Public Safety of the State of Mississippi; PAUL
G. ALEXANDER, District Attorney of Hinds
County, and WILLIAM R. LAMB, District Attor-
ney of Lafayette County, individually; J. ROBERT
GILFOY, Sheriff of Hinds County, and J. W.
FORD, Sheriff of Lafayette County, individually;
WILLIAM D. RAYFIELD, Chief of Police of the

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City of Jackson, and JAMES D. JONES, Chief of Police of the City of Oxford, individually; WALTER TON SMITH, Constable of the City of Oxford, Defendants.

(October 19, 1962)

ORDER AND JUDGMENT ON THE MOTION OF THE STATE OF MISSISSIPPI TO DISSOLVE THE TEMPORARY RESTRAINING ORDER OF SEPTEMBER 25, 1962, TO DISMISS THE CONTEMPT PROCEEDINGS AGAINST ROSS R. BARNETT and PAUL B. JOHNSON, JR., and ORDER AND JUDGMENT ON MOTION OF APPELLANT and UNITED STATES OF AMERICA, AMICUS CURIAE, PETITIONER, FOR PRELIMINARY INJUNCTION.

This matter came on for hearing on October 12, 1962, pursuant to an order to show cause why a preliminary injunction should not be granted against the named Respondents, and on a motion subsequently filed by the State of Mississippi to dissolve the temporary restraining order entered by this Court on September 25, 1962, and to dismiss the pending contempt proceedings which had resulted in a judgment of this Court finding respondent, Ross R. Barnett, guilty of civil contempt. The United States, Amicus Curiae, by designation of the Court, as petitioner herein, named all of the respondents whose names are included in the caption of this order. The appellant named some but not all of the said respondents, and did not name the State of Mississippi as a party.

James H. Meredith v. Charles Dickson Fair, et al.

Petitioners introduced oral testimony and documentary evidence which fully sustained the allegations of the petition. Respondents all appeared by counsel. Neither the State of Mississippi nor any other respondent made any factual showing in an effort to contradict the allegations of fact or the testimony tendered on behalf of petitioners supporting said allegations. The respondents contend that these petitions for injunction, as well as the petitions for temporary restraining order against the parties herein named undertook to make additional parties in an equity cause on appeal, as to which none of said parties had had an opportunity to contest the judgment of the trial court or the judgment of this Court which resulted in the injunction of July 26, 1962. Those judgments required the defendants in the original complaint, the administrative officials and the Board of Trustees of the University of Mississippi to admit James H. Meredith as a student and to permit his continued attendance as a student on the same basis as all other students.

The posture of this case at the time these motions for preliminary injunction and the accompanying motions for temporary restraining order were filed, is that this Court had issued its injunction, above referred to, prohibiting the officials of the University and the Trustees of the State Institutions of Higher Learning of the State of Mississippi from interfering with the admission of James H. Meredith and his continuance as a student in the University of Mississippi, and also prohibiting certain of the defendants now before the Court from further prosecuting criminal proceedings against the said Meredith; whereupon, it was alleged in the petition of the United States, the State of Mississippi, through its official state policy, pursuant to

actions of its legislature, and through the actions of its Governor by proclamation, and all of the other respondents, were then engaged in actively frustrating the execution of this Court's injunction against the officials of the University. These proceedings, therefore, are purely ancillary to the original lawsuit, and this Court has ample power to proceed against any party, including the State of Mississippi, which is shown to be engaged in a willful, intentional effort to frustrate this Court's injunction.

The motion to dissolve the restraining order and the motion to dismiss the contempt proceedings by the Respondents are, therefore, DENIED.

The ruling just stated equally disposes of the contention made by the respondents that this Court is now powerless to issue the preliminary injunction. We, therefore, hold that the Court has the power to issue this injunction against the persons not previously named as defendants in the main suit to prevent their active interference with this Court's prior injunctions.

The evidence adduced before this Court, neither attacked by respondents nor contended by them to be legally insufficient to warrant the granting of the relief sought, establishes the following facts:

The State of Mississippi, Ross R. Barnett, Governor of Mississippi; Joe T. Patterson, Attorney General of Mississippi; T. B. Birdsong, Commissioner of Public Safety of Mississippi; Paul G. Alexander, District Attorney of Hinds County; William R. Lamb, District Attorney of Lafayette County; J. Robert Gilroy, Sheriff of Hinds County; J. W.

Ford, Sheriff of Lafayette County; William D. Rayfield, Chief of Police of the City of Jackson; James D. Jones, Chief of Police of the City of Oxford; Walton Smith, Constable of the City of Oxford, threaten to implement and enforce, unless restrained by order of this Court, the provisions of a Resolution of Interposition adopted by the Mississippi Legislature, the provisions of Section 4065.3 of the Mississippi Code, and a Proclamation of Ross H. Barnett invoking the doctrine of interposition with respect to the enforcement of the orders of this Court in this case; that Paul G. Alexander has instituted two criminal prosecutions against James Howard Meredith on account of the efforts of James Howard Meredith to enroll in the University of Mississippi pursuant to the orders of this Court. On September 28, 1962, James H. Meredith was tried in absentia by the Justice of the Peace of Hinds County, Mississippi, and convicted on the charge by Paul Alexander that Meredith had falsely secured registration as a voter of Hinds County, when he was in fact a resident of Attalla County, and for which he was assessed a penalty of imprisonment for one year and a fine of \$300. On September 20, 1962 James Howard Meredith, while seeking to enroll at the University of Mississippi in Oxford, Mississippi, pursuant to the orders of this Court, was served with a writ of injunction issued by the Chancery Court of Lafayette County, Mississippi, at the instance of Ross R. Barnett, enjoining James Howard Meredith from applying to or attending the University of Mississippi, and to which Meredith and his attorneys are required to show cause on the 4th day of November, 1962, why this injunction should not be made permanent. On September 20, 1962, Ross R. Barnett, the Governor of the State of Mississippi secured an injunction in the Chancery Court of Hinds County against Meredith

and his attorney enjoining them from proceeding to secure the registration, admission and continued attendance of Meredith as a student at the University of Mississippi to which Meredith has been ordered to show cause on the fourth Monday in October, 1962, why the injunction should not continue. Likewise on September 20, 1962, an application of Ross R. Barnett, Governor of the State of Mississippi, the Chancery Court of Hinds County issued an injunction against the Board of Trustees of the State Institutions of Higher Learning enjoining it from admitting Meredith to the University of Mississippi. On September 20, 1962, the State of Mississippi enacted Senate Bill 1501, the effect of which is to punish James Howard Meredith should he seek enrollment in the University of Mississippi; that on October 3 and 5, 1962, respectively, the House and Senate of the Mississippi Legislature adopted House Concurrent Resolution No. 18, calling for the redress of grievances, including the removal of Meredith from the University, removal of all Federal Marshals and troops; that on September 28, 1962, House Bill #2, Laws of Mississippi, 1962, Extraordinary Session, was enacted, providing that all acts, words and conduct performed by any state officer in keeping Mississippi Institutions of Higher Learning segregated are adopted as the Acts of the sovereign state of Mississippi and not the acts of such individuals; that the effect of the conduct of the defendants herein named in implementing the policy of the State of Mississippi as proclaimed by Ross R. Barnett will necessarily be to prevent the carrying out of the orders of this Court and of the District Court for the Southern District of Mississippi; and that the acts and conduct of the defendants resulting in the petition will cause immediate and irreparable injury to the appellant Meredith and to the United States consisting of the impairment

of the integrity of its judicial processes, the obstruction of the due administration of justice, and the deprivation of rights under the Constitution and laws of the United States unless prevented by an order of the Court.

IT IS NOW THEREFORE ORDERED that the State of Mississippi, Ross R. Barnett, Joe T. Patterson, T. B. Birdsong, Paul G. Alexander, William R. Lamb, J. Robert Gilfoy, J. W. Ford, William D. Rayfield, James D. Jones, Walton Smith, their agents, employees, officers, successors, and all persons in active concert or participation with them who shall receive actual notice of this injunction by personal service or otherwise, be enjoined until the further order of this Court from:

1. Arresting, attempting to arrest, prosecuting or instituting any prosecution against James Howard Meredith under any statute, ordinance, rule or regulation whatever, on account of his attending, or seeking to attend, the University of Mississippi; without limiting the generality of the foregoing, this shall include:

(a) Proceeding to arrest the appellant pursuant to the conviction of appellant on September 20, 1962, in the case of State of Mississippi v. Meredith, Case No. 15-242, filed May 28, 1962, in the Justice of the Peace Court, Fifth Supervisors District of Hinds County, Mississippi, and from taking any action to enforce the judgment of conviction against the appellant in this case.

(b) Proceeding with the prosecution of appellant in State of Mississippi v. Meredith, Case No.

16-307, filed September 14, 1962, charging appellant with a felony and alleging that he falsely secured his registration as a voter in Hinds County.

(c) Commencing any other prosecutions or taking any action or doing any act to further prosecute the appellant for allegedly securing his registration as a voter in Hinds County.

2. Instituting or proceeding further in any civil action against James Howard Meredith or any other persons on account of James Howard Meredith's enrolling or seeking to enroll or attending the University of Mississippi; without limiting the generality of the foregoing this includes:

(a) Taking any action or doing any act to enforce or serve the injunction order obtained on the 20th day of September, 1962, in the Chancery Court of Hinds County, Mississippi, by the Governor of the State of Mississippi, Ross R. Barnett, against the appellant and his attorneys in the case of State of Mississippi, ex rel, Ross Barnett v. Meredith, Complaint No. 62,000 filed September 20, 1962.

(b) Taking any action or doing any act to enforce or serve the injunction order obtained by the Governor of the State of Mississippi in the Chancery Court of Lafayette County, Mississippi against the appellant and his attorneys in the case of State of Mississippi, ex rel. Ross R. Barnett v. Meredith, Complaint No. 62,054, filed September 20, 1962.

(c) Taking any action or doing any act to serve or enforce the injunction issued against the appellee Board of Trustees of State Institutions of Higher Learning by the Chancery Court of Hinds County on September 20, 1962, upon the application of Ross R. Barnett, Governor of the State of Mississippi.

(d) Taking any action or doing any act to secure any further or additional state court injunctions against the appellant, his attorneys, the Board of Trustees of State Institutions of Higher Learning, or any official of the University of Mississippi which are designed to or which have the effect of interfering with the continued attendance of appellant as a student at the University of Mississippi.

3. Injuring, harassing, threatening or intimidating James Howard Meredith in any other way or by any other means on account of his attending or seeking to attend the University of Mississippi;

4. Interfering with or obstructing by any means or in any manner the performance of obligations or the enjoyment of rights under this Court's order of July 28, 1962, and the order of the United States District Court for the Southern District of Mississippi entered September 13, 1962, in this action, and

5. Interfering with or obstructing, by force, threat, arrest or otherwise, any officer or agent of the United States in the performance of duties in connection with the en-

enforcement of, and the prevention of obstruction to, the orders entered by this Court and the District Court for the Southern District of Mississippi relating to the enrollment and attendance of James Howard Meredith at the University of Mississippi; or arresting, prosecuting or punishing such officer or agent on account of his performing or seeking to perform such duty.

DATED: October 19th, 1962.

/s/ ELBERT P. TUTTLE
Chief Judge, United States
Court of Appeals, Fifth Circuit

/s/ RICHARD T. RIVES
United States Circuit Judge

/s/ WARREN L. JONES
United States Circuit Judge

/s/ JOHN R. BROWN
United States Circuit Judge

/s/ JOHN MINOR WISDOM
United States Circuit Judge

ENTER FOR THE COURT
/s/ ELBERT P. TUTTLE
Chief Judge, United States
Court of Appeals, Fifth Circuit

CIRCUIT JUDGES GEWIN and BELL
concurring in part and dissenting in part:

With all deference to our brothers, and realizing that it involves for each of us a matter of judgment, we would make our injunction the mandate of this court and forward it to the United States District Court for the Southern District of Mississippi, there to be made the judgment of that court, and to be supervised and enforced along with our injunction of July 28, 1962 which was entered by that court on September 13, 1962 pursuant to our mandate. Our appellate jurisdiction would continue but the remand should tend to restore normalcy in Mississippi, and would comport with good judicial administration under the circumstances.

Of course, we should retain the contempt proceedings now pending against Governor Barnett and Lieutenant Governor Johnson for final disposition but such retention in no way militates against remand. The Governor and Lieutenant Governor must yield in order to purge themselves of contempt. They must yield also to preserve the integrity of the judicial process, the Federal Constitution and their oaths of office pursuant thereto:

" . . . and all executive Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution; . . . " Article 6, Clause 3.

Upon their yielding, the enforcement of all other outstanding orders in this matter would and should be the duty of the District Court.

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We have serious doubts, from a procedural and substantive point of view, as to the joinder of the State of Mississippi as a party. We would dissolve the temporary restraining order as to the State of Mississippi and would not include the State of Mississippi in the preliminary injunction. U. S. Const. Art. III, § 2, par. 2 and the 11th Amendment.

We concur in the order of the majority save in this respect.

/s/ WALTER P. GEWIN
/s/ GRIFFIN B. BELL
U. S. Circuit Judges

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IN THE UNITED STATES COURT OF APPEALS U. S. COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED

NO. 20240

JAN 5 1963

EDWARD W. WADSWORTH
CLERK

UNITED STATES OF AMERICA

- versus -

ROSS R. BARNETT and PAUL
B. JOHNSON, JR.

Before TUTTLE, Chief Judge, RIVES, CAMERON, JONES, BROWN, WISDOM,
GEWIN and BELL, Circuit Judges.

ORDER TO SHOW CAUSE WHY ROSS R. BARNETT AND
PAUL B. JOHNSON, JR. SHOULD NOT BE HELD IN
CRIMINAL CONTEMPT

This Court having entered an order on September 18, 1962, in the case of James H. Meredith, et al. v. Charles Dickson Fair, et al., No. 19475, designating and authorizing the United States to appear and participate in that case as amicus curiae with the right to submit pleadings, evidence, arguments and briefs, and to initiate such further proceedings, including proceedings for injunctive relief, as might be appropriate in order to maintain and preserve the due administration of justice and the integrity of the judicial processes of the United States, and

The Attorney General having instituted, pursuant to this Court's order of September 18, 1962, an action in the name of and on behalf of the United States, as amicus curiae, which action was entitled United States v. State of Mississippi, et al., restraining the State of Mississippi and Ross R. Barnett, their agents, employees, officers, successors, and all persons in active concert or participation with them, from interfering with or obstructing the enjoyment of rights or the performance of duties under the order of this Court of July 28, 1962, in the case of Meredith v. Fair, and a similar order of the District Court for the Southern District of Mississippi in that case, requiring

the enrollment of James H. Meredith at the University of Mississippi, and

This Court having ordered on November 15, 1962, that the Attorney General, and such attorneys in the Department of Justice as he may designate, be appointed to institute and prosecute criminal contempt proceedings against Ross R. Barnett and Paul B. Johnson, Jr., and

Probable cause having been made to appear from the application of the Attorney General filed December 21, 1962, in the name of and on behalf of the United States that on September 25, 1962, Ross R. Barnett, having been served with and having actual notice of this Court's temporary restraining order of September 25, 1962, wilfully prevented James H. Meredith from entering the offices of the Board of Trustees of the University of Mississippi in Jackson, Mississippi, and thereby deliberately prevented James H. Meredith from enrolling as a student in the University pursuant to this Court's order of July 28, 1962; that on September 26, 1962, Paul B. Johnson, Jr., acting under the authorization and direction of Ross R. Barnett, and as his agent and as an agent and officer of the State of Mississippi, and while having actual notice of the temporary restraining order of September 25, 1962, wilfully prevented James H. Meredith from entering the campus of the University of Mississippi in Oxford, Mississippi, and thereby deliberately prevented James H. Meredith from enrolling as a student in the University pursuant to the orders of this Court; that on September 27, 1962, Ross R. Barnett and Paul B. Johnson, Jr. wilfully failed to take such measures as were necessary to maintain law and order upon the campus of the University of Mississippi and did, instead, direct and encourage certain members of the Mississippi Highway Safety Patrol, Sheriffs and deputy Sheriffs and other officials of the State of Mississippi to obstruct and prevent the entry of James H. Meredith upon the campus of the University that day; that on September 30, 1962, Ross R. Barnett, knowing of the planned entry of James H.

that disorders and disturbances had attended and would attend such entry, and knowing that any failure of the Mississippi Highway Safety Patrol to take all possible measures for the maintenance of peace and order upon the campus could and would result in interferences with and obstructions to the carrying out of the Court's order of July 28, 1962, wilfully failed to exercise his responsibility, authority, and influence as Governor to maintain law and order upon the campus of the University of Mississippi; and that all of said acts, omissions and conduct of Ross R. Barnett and Paul B. Johnson, Jr., were for the purpose of preventing compliance with this Court's order of July 28, 1962, and of the similar order of the United States District Court for the Southern District of Mississippi, entered on September 13, 1962, and were in wilful disobedience and defiance of the temporary restraining order of this Court entered on September 25, 1962,

IT IS ORDERED that Ross R. Barnett and Paul B. Johnson, Jr., appear before this Court in the courtroom of the United States Court of Appeals for the Fifth Circuit in New Orleans, Louisiana, on February 8, 1963, at 9:30 o'clock a.m., to show cause, if any they have, why they should not be held in criminal contempt, and should either of them at said time and place show such cause, either by pleading not guilty to the charges contained in the application of the United States, or by other means, he shall thereafter appear before this Court for hearing upon said charges at a time and place to be fixed by the Court.

This 4th day of January, 1963.

ELEERT P. TUTTLE

RICHARD T. PIVES

HARREN L. JONES

JOHN R. BROWN

JOHN MINOR WISDOM

GRIFFIN B. BELL

United States Circuit Judge
Fifth Circuit

I DISSENT - BEN F. CAMERON
UNITED STATES CIRCUIT
JUDGE, FIFTH CIRCUIT

I DISSENT - WALTER P. GEWIN
UNITED STATES CIRCUIT
JUDGE, FIFTH CIRCUIT